

1 Richard M. Heimann (063607)
rheimann@lchb.com

2 Joy A. Kruse (142799)
jakruse@lchb.com

3 Katherine C. Lubin (259826)
kbenson@lchb.com

4 LIEFF CABRASER HEIMANN &
BERNSTEIN, LLP

5 275 Battery Street, 29th Floor
San Francisco, CA 94111-3339

6 Telephone: (415) 956-1000
Facsimile: (415) 956-1008

7 *Attorneys for Plaintiff Fire & Police*
8 *Pension Association of Colorado and Co-*
9 *Lead Counsel*

9 Maya Saxena (*pro hac vice*)
msaxena@saxenawhite.com

10 Joseph E. White, III (*pro hac vice*)
jwhite@saxenawhite.com

11 Lester R. Hooker (241590)
lhooker@saxenawhite.com

12 Jorge A. Amador (237800)
jamador@saxenawhite.com

13 SAXENA WHITE P.A.
5200 Town Center Circle, Suite 601

14 Boca Raton, FL 33486
Telephone: (561) 394-3399

15 Facsimile: (561) 394-3382

16 [Additional Counsel on Signature Page]

17 *Attorneys for Plaintiff The City of*
18 *Birmingham Retirement and Relief System*
19 *and Co-Lead Counsel*

19 UNITED STATES DISTRICT COURT

20 NORTHERN DISTRICT OF CALIFORNIA

22
23 IN RE WELLS FARGO & COMPANY
24 SHAREHOLDER DERIVATIVE
25 LITIGATION

Lead Case No. 3:16-cv-05541-JST

22 **STIPULATION AND ~~PROPOSED~~**
23 **ORDER SETTING BRIEFING**
24 **SCHEDULE**

25 The Honorable Jon S. Tigar

26 WHEREAS, on February 8, 2017, the Court entered an order setting the briefing schedule
27 on Defendants' motion to dismiss the Consolidated Complaint on the threshold issue of demand
28 futility [Dkt. 81];

1 Whereas, the February 8, 2017 order preserved Defendants' right to assert other defenses,
2 including by motion or otherwise, after the Court's consideration of Defendants' demand futility
3 motion to dismiss;

4 WHEREAS, on February 24, 2017, Lead Plaintiffs Fire and Police Pension Association of
5 Colorado and The City of Birmingham Retirement and Relief System filed their Consolidated
6 Amended Verified Stockholder Derivative Complaint [Dkt. 83];

7 WHEREAS, on March 17, 2017, Defendants filed their motion to dismiss for failure to
8 adequately plead demand futility [Dkt. 99], which Plaintiffs opposed on April 3, 2017 [Dkt. 115]
9 and Defendants replied to on April 14, 2017 [Dkt. 116];

10 WHEREAS, on May 4, 2017, the Court held argument on Defendants' motion to dismiss
11 on demand futility grounds;

12 WHEREAS, on May 4, 2017, the Court denied in part and granted in part Defendants'
13 motion to dismiss [Dkt. 129], holding that Plaintiffs had adequately pled demand futility;

14 WHEREAS, the parties have conferred and agreed on a schedule for briefing any
15 remaining motions to dismiss pursuant to Federal Rule of Civil Procedure 12 that Defendants
16 intend to make;

17 NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED, between Lead
18 Plaintiffs, by and through their counsel, and Defendants, by and through their counsel, that the
19 following schedule shall be in effect for the filing of Defendants' motions to dismiss pursuant to
20 Rule 12:

21 Last Day to File Motion to Dismiss or Otherwise Respond
22 to the Amended Complaint: June 5, 2017

23 Last Day to File Response to Motion to Dismiss: July 5, 2017

24 Last Day to File Reply to Responses: 21 days from filing of Response to
25 Motion to Dismiss

26 Hearing on Motion to Dismiss: At the Court's convenience
27
28

1 Dated: May 23, 2017

LIEFF CABRASER HEIMANN & BERNSTEIN, LLP

2
3 By: /s/ Richard M. Heimann

4 Richard M. Heimann (063607)

rheimann@lchb.com

5 Joy A. Kruse (142799)

jakruse@lchb.com

6 Katherine C. Lubin (259826)

kbenson@lchb.com

7 LIEFF CABRASER HEIMANN & BERNSTEIN, LLP

275 Battery Street, 29th Floor

8 San Francisco, CA 94111-3339

Telephone: (415) 956-1000

9 Facsimile: (415) 956-1008

10 Steven E. Fineman (140335)

sfineman@lchb.com

11 Daniel P. Chiplock (*pro hac vice application to be filed*)

dchiplock@lchb.com

12 Nicholas Diamand (*pro hac vice*)

ndiamand@lchb.com

13 Michael J. Miarmi (*pro hac vice*)

mmiarmi@lchb.com

14 Lieff Cabraser Heimann & Bernstein, LLP

250 Hudson Street, 8th Floor

15 New York, NY 10013-1413

Telephone: (212) 355-9500

16 Facsimile: (212) 355-9592

17 *Attorneys for Plaintiff Fire & Police Pension Association*
18 *of Colorado and Co-Lead Counsel*

1 Maya Saxena (*pro hac vice*)
2 *msaxena@saxenawhite.com*
3 Joseph E. White, III (*pro hac vice*)
4 *jwhite@saxenawhite.com*
5 Lester R. Hooker (241590)
6 *lhooker@saxenawhite.com*
7 Jorge A. Amador (237800)
8 *jamador@saxenawhite.com*
9 Adam D. Warden (*Pro hac vice application to be filed*)
10 *awarden@saxenawhite.com*
11 Dianne M. Anderson (CA Bar No. 103670)
12 *danderson@saxenawhite.com*
13 SAXENA WHITE P.A.
14 5200 Town Center Circle, Suite 601
15 Boca Raton, FL 33486
16 Telephone: (561) 394-3399
17 Facsimile: (561) 394-3382

18 Steven B. Singer (*Pro hac vice application to be filed*)
19 4 West Red Oak Lane, Suite 312
20 White Plains, NY 10604
21 Telephone: (914) 437-8551
22 Facsimile: (888) 631-3611
23 *ssinger@saxenawhite.com*

24 *Attorneys for Plaintiff The City of Birmingham*
25 *Retirement and Relief System and Co-Lead Counsel*

26 SULLIVAN & CROMWELL LLP

27 By: /s/ Brendan P. Cullen

28 Richard H. Klapper (*pro hac vice*)
(*klapperr@sullcrom.com*)
SULLIVAN & CROMWELL LLP
125 Broad Street
New York, New York 10004-2498
Telephone: (212) 558-3555
Facsimile: (212) 291-9083

1 Brendan P. Cullen (SBN 194057)
2 (cullenb@sullcrom.com)
3 SULLIVAN & CROMWELL LLP
4 1870 Embarcadero Road
5 Palo Alto, California 94303-3308
6 Telephone: (650) 461-5600
7 Facsimile: (650) 461-5700

8 Christopher M. Viapiano (*pro hac vice*)
9 (viapianoc@sullcrom.com)
10 SULLIVAN & CROMWELL LLP
11 1700 New York Avenue, N.W., Suite 700
12 Washington, D.C. 20006
13 Telephone: (202) 956-6985
14 Facsimile: (202) 956-7056

15 Gilbert R. Serota (SBN 75305)
16 (gilbert.serota@apks.com)
17 ARNOLD & PORTER KAYE SCHOLER LLP
18 Three Embarcadero Center
19 San Francisco, California 94111
20 Telephone: (415) 471-3170
21 Facsimile: (415) 471-3400

22 *Attorneys for Nominal Defendant Wells Fargo & Co.*

23 GOODWIN PROCTER LLP

24 By: /s/ Grant P. Fondo

25 Richard M. Strassberg (*pro hac vice forthcoming*)
26 (rstrassberg@goodwinlaw.com)
27 GOODWIN PROCTER LLP
28 620 8th Avenue
New York, NY 10018
Telephone: (212) 813-8800
Facsimile: (212) 355-3333

Grant P. Fondo
(gfondo@goodwinlaw.com)
GOODWIN PROCTER LLP
135 Commonwealth Drive
Menlo Park, CA 94025
Telephone: (650) 752-3100
Facsimile: (650) 853-1038

Attorneys for Defendant John G. Stumpf

CLARENCE DYER & COHEN LLP

By: /s/ Nanci L. Clarence

Nanci L. Clarence
(nclarence@clarencedyer.com)
Josh A. Cohen
(jcohen@clarencedyer.com)
CLARENCE DYER & COHEN LLP
899 Ellis Street
San Francisco, CA 94109
Telephone: (415) 749-1800
Facsimile: (415) 749-1694

Attorneys for Defendant Timothy J. Sloan

ARGUEDAS, CASSMAN & HEADLEY, LLP

By: /s/ Ted W. Cassman

Cristina C. Arguedas
(arguedas@achlaw.com)
Laurel L. Headley
(headley@achlaw.com)
Ted W. Cassman
(cassman@achlaw.com)
ARGUEDAS, CASSMAN & HEADLEY, LLP
803 Hearst Avenue
Berkeley, California 94710
Telephone: (510) 845-3000
Facsimile: (510) 845-3003

Attorneys for Defendant Michael J. Loughlin

WILLIAMS & CONNOLLY LLP

By: /s/ Enu A. Mainigi

Enu A. Mainigi (*pro hac vice forthcoming*)
(emainigi@wc.com)
WILLIAMS & CONNOLLY LLP
725 Twelfth Street, N.W.
Washington D.C. 20005
Telephone: (202) 434-5000
Facsimile: (202) 434-5029

Attorneys for Defendant Carrie Tolstedt

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SHEARMAN & STERLING LLP

By: /s/ Jaculin Aaron

Jaculin Aaron
(jaaron@shearman.com)
SHEARMAN & STERLING LLP
599 Lexington Avenue
New York, NY 10022
Telephone: (212) 848-4000
Facsimile: (212) 848-7179

Attorneys for Defendants John D. Baker II, Elaine L. Chao, John S. Chen, Lloyd H. Dean, Elizabeth A. Duke, Susan E. Engel, Enrique Hernandez, Jr., Donald M. James, Cynthia H. Milligan, Federico F. Peña, James H. Quigley, Stephen W. Sanger, Susan G. Swenson and Suzanne M. Vautrinot

RAMSEY & EHRLICH LLP

By: /s/ Ismail Ramsey

Miles Ehrlich
(miles@ramsey-ehrllich.com)
Ismail Ramsey
(izzy@ramsey-ehrllich.com)
RAMSEY & EHRLICH LLP
803 Hearst Avenue
Berkeley, CA 94710
Telephone: (510) 548-3600
Facsimile: (510) 291-3060

Attorneys for Defendant John R. Shrewsberry

1 **ATTESTATION PURSUANT TO GENERAL ORDER 45**

2 I, Richard M. Heimann, in compliance with General Order 45, Section X(B),
3 hereby attest that I obtained the concurrence of all of the above-listed counsel in filing this
4 document.
5

6 DATED: May 23, 2017

7 /s/ Richard M. Heimann

8 Richard M. Heimann
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ORDER

THE FOREGOING STIPULATION IS APPROVED AND IT IS SO ORDERED.

Dated: May 30, 2017



THE HONORABLE JON S. TIGAR
UNITED STATES DISTRICT JUDGE